

Remarks/Arguments

The examiner in an Office Action dated 1 November 2002 rejected all of the pending claims 1-5. As such this Office Action and the references cited therein have been carefully considered and this amendment is now presented in an effort to comply with Patent Office requirements and advance prosecution of the application.

The examiner rejected claims 1-5 under the judicially created doctrine of obviousness type double patenting based on the applicant's copending application Serial No. 10/021,643. The applicant asserts that claims 1-5 of the current patent application and claims 1-6 of the '643 patent application are patentably distinct from one another and not subject of an obvious type double patenting rejection. To buttress this point, claims 1-5 of the current application are rejected as being anticipated by Hornung et al, claims 1-6 of the '643 application were rejected as being obvious over Hornung et al in view of Applequist and Melgoza. Even though the examiner used the same base reference in both sets of rejections the difference in these rejections speaks to the patentable differences in the claims. It should be noted that in responding to the '643 rejections the applicant has challenged to combination of references suggested by the examiner. In responding to this present rejection, the applicant has amended independent claim 1 to better distinguish it over Hornung et al as discussed below.

The examiner rejected claims 1-5, under 35 USC 102, as being anticipated by Hornung et al. Hornung et al discloses a seeding machine 1 having left and right wing frames 10 and 12 that can be pivoted from a working configuration to a transport configuration. Hoppers 48 for holding seed are mounted to the wing frames 10 and 12. Hopper feed tubes 50 extend from the hoppers 48 to the planting units 55. Please note, the Hornung et al planting units comprise furrow openers only and not unit hoppers and seed meters as is presently claimed in amended claim 1. The Hornung et al planting units 55 are secured to the wing frames 10 and 12 by rotating tool bars 86 and parallel linkages 65. The rotating toolbars 86 are rotated by hydraulic cylinders 100 rotating the parallel linkages 65 and pivoting the planting units 55 into and out of working and transport positions.

Applicant wishes to note that the examiner has cited US Patent 5,740,746 to Ledermann et al in Office Actions of related applications. A copy of this patent is attached hereto.

"Version with Markings to Show Changes Made"

1. A seeding machine comprising:

a frame;

a wing frame is pivotally mounted to the frame so that it can be pivoted from a working configuration to a transport configuration;

a hopper for holding seed;

a pivot arm having a first end and a second end, the first end of the pivot arm is pivotally mounted to the wing frame, the pivot arm having a working position and a transport position;

a planting unit is mounted to the second end of the pivot arm, the planting unit comprises a seed meter, an auxiliary hopper and a furrow opener, when the pivot arm is in its working position the planting unit is in contact with the ground;

a flexible tube extends between the hopper and the auxiliary hopper of the planting unit for directing seed from the hopper to the planting unit;

when the wing frame is moved to its transport configuration, the pivot arm is moved to its transport position wherein the planting units are pivoted vertically.

In addition, the applicant wishes to notify the examiner that the applicant will be adding an inventor in the near future. This inventor was mistakenly left off the original filing of the application.

In conclusion, it is believed that this application is in condition for allowance, and such allowance is respectfully requested.

Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0525. Two duplicates of this page are enclosed.

Respectfully,



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Cindy Whitaker 6 February 2003
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